American Life Ins. and Trust Co., 3 N. Y. 344. That case held that the term "chose in action" means a particular species of property, recognized by law, and which, on the death of the owner would be inventoried as such by his legal representatives, and does not include credit, and, though credit may be a benefit to the possessor as a means of procuring property, it is not in itself recognized in law as property. The defect in the plaintiff's reasoning lay in the fact that they failed to see that the agreement in the principal case was not credit in the true sense at all. Credit in its true sense, to be sure, means the capacity of being trusted just as the plaintiff contended, *or* the ability to borrow money. It means that one side of the contract has been fully executed while the other side is entirely unexecuted. In the principal case that was not the situation. The pounds were to be paid for in American dollars as fast as the title to them was transferred. There was no element of borrowing. There was really no element of credit involved. What defendant wanted and what he got was the right to call upon London for so many pounds of exchange. This was clearly a chose in action. The title was still in the vendor while the right to the possession was in the vendee by virtue of the contract. Undoubtedly then the court was right in holding that on either of the above theories the contract was within the Statute of Frauds and therefore unenforceable.

INTERNAL REVENUE—INCOME TAX—LOSS SUSTAINED IN OUTSIDE SPECULATION NOT DEDUCTIBLE—"LOSSES INCURRED IN TRADE."—The taxpayer, a member of Mente & Co., who were engaged in making jute and cotton bags, in his income report for the years 1913 and 1914 deducted from his gross income, losses sustained in buying and selling cotton on the Cotton Exchange for his private account, as "losses incurred in trade." The Income Tax Act Oct. 3, 1913, Sec. II, Subd. 2B (38 STAT. 167) provides: "That in computing net income for purposes of normal tax there shall be allowed as deduction: * * * fourth, losses actually sustained during year, incurred in trade, * * *." The Collector of internal revenue assessed a tax on these deductions which the taxpayer paid under protest. In an action to recover the amounts so paid, *held,* (Manton, J., dissenting) "in trade" was rightly construed by the Collector as meaning in the actual business of the taxpayer, as distinguished from isolated transactions. *Mente* v. *Eisner* (C. C. A. 2nd Circ., 1920), 266 Fed. 161.

The majority opinion goes on to say that although it is somewhat inconsistent to tax the profits of such transactions without allowing deductions for loss, yet if intent had been to permit all losses to be deducted, the statute would say so. Treasury Decision 2090 construes correctly "in trade" to mean "the trade or trades in which he has invested money otherwise than for purpose of being employed in isolated transactions." Manton, J., dissenting, considered that what the taxpayer did here, selling cotton futures, was engaging "in trade." Trade as defined by BOUVIER is "any sort of dealings by way of sale or exchange." The interpretation put upon "in trade" by the Collector as synonymous with "in his business" is too narrow. That the Income Tax Act of 1913 has been amended by the Act of 1918, Sec. 214, Subd. 5 (40 STAT. 1067), providing deduction of "losses * * * if incurred in any trans-

action entered into for profit, though not connected with the trade or business * * *," may be deducted, tends to show that the interpretation put upon the previous law was not according to the intent of Congress.

INTERNATIONAL LAW—ALIEN'S CAPACITY TO INHERIT LAND—EFFECT OF WAR ON TREATIES.—Intestate owned land in New York. One of his two surviving daughters, plaintiff in this case, had married an Austro-Hungarian subject resident in the United States. Shortly before intestate's death war was declared between Austria-Hungary and the United States. The New York Real Property Law, Sec. 10, enabled "alien friends" to acquire land in New York by descent. 7 CONSOL. LAWS, (2nd Ed.), 7269. The Treaty of Commerce and Navigation between Austria-Hungary and the United States, Art. 2, provided that where citizens of either country should be incapable under the laws of the other of acquiring land by descent they should be allowed at least two years to sell lands which they would otherwise inherit and to withdraw the proceeds. 9 STAT. 944; 2 MALLOY, TREATIES, 34. Could plaintiff inherit New York land? If not, had she a right to dispose of it as provided in the Treaty? *Held,* that plaintiff could not inherit land under the New York law, but that she had a right to dispose of land which she would otherwise inherit as provided in the Treaty. The Treaty with Austria-Hungary, at least as regards the article in controversy, was compatible with a state of hostilities and had not been suspended by war. *Techt* v. *Hughes,* (New York, 1920), 128 N. E. 185.

At common law an alien, friend or enemy, could not take land by descent. See 1 POLLOCK AND MAITLAND, HISTORY OF ENGLISH LAW, [2nd Ed.], 459; 2 BLACKSTONE, COMMENTARIES, 249; *Dawson's Lessee* v. *Godfrey,* 4 Cr. 321. By virtue of the Citizenship Act of 1907, Sec. 3, which provides that "any American woman who marries a foreigner shall take the nationality of her husband," plaintiff had become an alien. 34 STAT. 1228; *Mackenzie* v. *Hare,* 239 U. S. 299. Upon the outbreak of war with Austria-Hungary she had become an alien enemy. Reliance upon Sec. 10 of the Real Property Law proved unavailing, since an alien enemy could not be regarded as an "alien friend" upon any reasonable construction. The Court's opinion upon this point is well considered and sound. It would have been no occasion for surprise if plaintiff's reliance upon the Treaty had proved equally precarious. There has been much diversity of opinion as regards the effect of war on treaties. It has been said that war abrogates treaties, with a few exceptions, and that their renewal, if desired, must be expressly stipulated. 3 PHILLIMORE, INT. LAW, [3rd Ed.], 794; 2 WESTLAKE, INT. LAW, [2nd Ed.], 32. On the other hand, a majority of the modern publicists emphasize the exceptions. 2 COBBETT, CASES, [3rd Ed.], 40; HALL INT LAW, [7th Ed.], Sec. 125; 2 OPPENHEIM, INT. LAW, [2nd Ed.], Sec. 99. It is difficult to extract a general rule from the practice of nations. Publicists usually resolve the difficulty by resort to classification. It is found upon classification that certain treaties become operative only in case of war, that others may continue operative in case of war by express stipulation (see *Fritz Schulz, Jr., Co.* v. *Raimes & Co.,* 164 N. Y. Supp. 454), that others may be suspended during war, and that